

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

TEAMSTERS LOCAL 610,)	
MISCELLANEOUS DRIVERS & HELPERS)	
UNION,)	
)	
Petitioner,)	
)	
vs.)	Public Case No. 80-041
)	
PARKWAY SCHOOL DISTRICT,)	
CHESTERFIELD, MISSOURI)	
)	
Respondent.)	

**CONCLUSIONS OF LAW, DECISION, AND
DIRECTION OF ELECTION**

This case appears before the State Board of Mediation upon the Teamsters Local 610, Miscellaneous Drivers and Helpers Union (Local 610) filing a petition for certification as public employee representative for all Maintenance Department and Grounds Department personnel employed by the Parkway School District (Employer). On May 29, 1981 a hearing was held in Clayton, Missouri at which representatives of Local 610, the Employer, and the Independent School Employees Union, Local 60, were present.

The issues before the Board are (1) what constitutes an appropriate bargaining unit among the involved employees; (2) whether there exists a written agreement between the Employer and Local 60 which constitutes a contract bar that renders untimely the petition filed by Local 610; and (3) whether the petition filed by Local 610 was in proper form.

In August, 1977 Local 60 petitioned to be certified as public employee representative of a bargaining unit consisting of all Maintenance and Grounds personnel (excluding supervisors) of the Parkway School District. Separate elections were held by

which the employees of both departments elected Local 60 as their representative. The Board's order of September 18, 1978 certified Local 60 as the public employee representative of "All maintenance department employees employed by the Parkway School District," which included grounds department personnel. Although the Board omitted the grounds department employees in the definition of the appropriate unit, all parties recognized that the grounds employees were included in the bargaining unit in subsequent bargaining sessions. Because there was no objection made by the Employer, Local 610, or Local 60, concerning the appropriateness of this unit at the May, 1981 hearing, the Board will recognize the employees of both the Maintenance Department and Grounds Department as constituting an appropriate bargaining unit.

As to the contract bar issue, Local 60 argues that a verbal agreement existing between Local 60 and the Employer makes untimely Local 610's petition. As stated in American Federation of Teachers, Local Union 420 vs. St. Louis Board of Education, Public Case No. 79-055 (SBM 1980):

"an agreement between an employer and an incumbent union will make untimely any certification or decertification petition filed by another union unless that petition is filed during the thirty day period commencing on the 90th day and ending the 61st day preceding the termination of the agreement. Such a "contract bar" is recognized by this Board if an employer (1) meets, confers and discusses proposals concerning the customary terms and conditions of employment with the employee's bargaining representative; (2) reduces those discussions to writing; (3) presents such proposals to the appropriate governing body; and (4) the governing body adopts those proposals."

Because there exists only a verbal agreement between Local 60 and the Employer, a valid contract bar is not present and therefore Local 610's petition is timely.

The remaining issue before the Board concerns the form of Local 610's petition for certification. Local 60 correctly asserts that it has been certified as the public employee representative of the involved employees. Because there already exists a recognized employee representative, argues Local 60, Local 610 must petition for the

decertification of the present unit rather than petition for certification. Although Local 60's argument is technically correct, the Board will not dismiss the petition in this instance because to do so would needlessly prolong the certification process. A close examination of the requirements for a certification petition (8 CSR 40-2.030) and those for decertification petition (8 CSR 40-2.040) reveals that the contents of the two petitions are nearly identical. Therefore, all Local 610 would have to do to comply with the procedural requirements would be to change the title of the petition. To dismiss the petition because of this minor discrepancy would needlessly postpone the certification process to the detriment of the employee's bargaining rights. Consequently, the Board will consider the petition as though it were a decertification petition despite procedural deficiency.

DECISION

It is the decision of the State Board of Mediation that an appropriate unit of employees is as follows: All Maintenance Department and Grounds Department Personnel (excluding supervisors) of the Parkway School District.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as possible, but no later than forty-five (45) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill or on vacation. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote on whether or not they desire to be represented by Local 610,

Local 60, or by neither, for the purposes of discussions relative to wages, hours, and other terms and conditions of employment.

It is hereby further ordered that the respondent shall submit to the Chairman of the State Board of Mediation, as well as to the petitioner and Local 60, within seven (7) days from the date of receipt of this decision, an alphabetical list of names and addresses of the employees in the unit determined above to be appropriate who were employed during the designated payroll period.

Signed this 22nd day of July, 1981.

(S E A L)

STATE BOARD OF MEDIATION

/s/ Mary L. Gant

Mary L. Gant, Chairman

/s/ Robert Missey

Robert Missey, Employee Member

/s/ Herbert Shaw

Herbert Shaw, Employer Member